
HOUSE BILL No. 1660

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.3-6; IC 13-18-15; IC 36-3-2; IC 36-4-3; IC 36-9-25-14.

Synopsis: Annexation. Provides that land is contiguous with a municipality for purposes of annexation if at least 1/4 of the aggregate external boundary of the land (instead of 1/8) coincides with the boundary of the municipality. After June 30, 2007, prohibits a person who owns or occupies property from entering into an agreement with a municipality not to remonstrate, appeal, or file an action against annexation proceedings. Requires a municipality to annex whole parcels of land. Repeals statutes that provide that a landowner who connects to sewer or water service because a person other than the landowner has polluted or contaminated the area is not required to grant a municipality a waiver of remonstrance to an annexation of the landowner's property.

Effective: July 1, 2007.

Austin, VanHaaften

January 23, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1660

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2.3-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The boundaries of
3 the assigned service areas of electricity suppliers may not be changed
4 except under any one (1) of the following circumstances:

5 (1) If a municipality which owns and operates an electric utility
6 system furnishing retail electric service to the public annexes an
7 area beyond the assigned service area of its municipally owned
8 electric utility, the municipally owned electric utility may petition
9 the commission to change the assigned service area of the
10 municipally owned electric utility to include the annexed area,
11 according to the following procedures:

12 (A) The municipally owned electric utility shall file its petition
13 with the commission not later than sixty (60) days after the
14 annexation becomes effective. The petition must include a
15 certified copy of the annexation ordinance, which serves as
16 conclusive evidence that the area has been lawfully annexed
17 and is part of the municipality. After the filing of a petition



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under this subdivision, the commission shall promptly enter an order changing the assigned service area facet maps of the municipally owned electric utility and incumbent electricity suppliers to include the annexed area within the assigned service area of the municipally owned electric utility and giving the right to serve and immediate possession to the municipally owned electric utility. The commission order is enforceable in court pending an appeal of that order. An appellant from a court order enforcing a commission order under this subdivision is not entitled to a stay of the court order pending appeal. However, this subdivision does not apply to incorporations, consolidations, mergers, or annexations that are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h), or IC 36-4-3-4.1 or that are not contiguous under IC 36-4-3-13(b). ~~or IC 36-4-3-13(c).~~

(B) Not later than thirty (30) days after filing a petition under this subdivision, the municipally owned electric utility shall determine for each affected incumbent electricity supplier and pay to that supplier an amount not less than the value of all the electric utility property of the incumbent electricity supplier that is devoted to furnishing retail electric service within the additional assigned service area at its then reproduction cost new depreciated value. In addition, the municipally owned electric utility shall pay the incumbent electricity supplier severance damages in an amount equal to:

(i) the value of the incumbent electricity supplier's distribution and substation facilities dedicated to and located within the annexed area or relocated by reason of the annexation or an amount equal to two and one-half (2 1/2) times the incumbent electricity supplier's gross revenues from electricity sales in the annexed area during the twelve (12) month period immediately preceding the date the annexation ordinance became effective, whichever is greater; plus

(ii) if additional permanent service locations or service accounts are established in the annexed area during the five (5) year period beginning on the effective date of the annexation ordinance, one-tenth of one cent (\$0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five (5) year period beginning on the date each service location or service account is established,

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up to a maximum of one hundred seventy thousand (170,000) kilowatt hours per service account or service location for each monthly billing period.

However, the municipally owned electric utility is not required to pay severance damages under item (ii) if, at the time each annual payment otherwise would accrue, it is purchasing all of its requirements for electric power and energy, except for generation directly provided by the municipally owned electric utility or by a customer, from the incumbent electricity supplier. Severance damages must be paid not later than thirty (30) days after the end of each calendar year in which severance damages have accrued. The municipally owned electric utility and incumbent electricity suppliers shall cooperate to calculate the amount of any severance damages and shall furnish to each other all information and records reasonably necessary for the determination and verification of severance damages. If the municipally owned electric utility and incumbent electricity suppliers cannot agree on the amount of severance damages the municipally owned electric utility is to pay, the commission shall determine the amount and order payment in accordance with this clause. Not later than twenty (20) days after making a payment, the municipally owned electric utility shall certify to the commission and to any affected incumbent electricity supplier that it has paid the amounts required under this clause.

(C) If the municipally owned electric utility fails to make a payment under clause (B), an affected incumbent electricity supplier may, not later than sixty (60) days after the payment is due and after giving the municipally owned electric utility reasonable notice of and an opportunity to cure the defect, file with the commission a petition alleging that a payment due under clause (B) has not been made. If the commission finds after notice and hearing that any payments owed to the incumbent electricity supplier have not been timely and fully paid, the commission shall order the municipally owned electric utility to pay:

- (i) the delinquent payments by a date determined by the commission;
- (ii) accrued interest at the rate set forth in IC 24-4.6-1-102; and
- (iii) the incumbent electricity supplier's costs of filing and prosecuting a petition under this clause.

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If the commission finds against the incumbent electricity supplier, it shall order the incumbent electricity supplier to pay the costs incurred by the municipally owned electric utility in defending against the incumbent electricity supplier's petition.

(D) A certified copy of a final commission order that:

(i) determines and orders the payment of severance damages under clause (B); or

(ii) orders the payment of delinquent payments, interest, and costs under clause (C);

may be filed with the clerk of the circuit or superior court of any county in which part or all of the annexed area is located.

A commission order that is filed in a court under this clause may be enforced and executed in the same manner as if it were a final judgment of that court.

(2) Upon mutual agreement of the affected electricity suppliers and approval of the commission. If notice of a verified request for a change of boundary lines by mutual agreement under this subdivision is published in a newspaper of general circulation in every county in which the boundary lines are located and an affected electricity customer does not request a hearing within twenty (20) days of the last date of publication, the commission may approve the change without a hearing. The commission shall approve a boundary line change under this subdivision unless the commission finds, after a public hearing, that the change would cause:

(A) duplication of electric utility facilities;

(B) waste of materials or resources; or

(C) uneconomic, inefficient, or inadequate electric service to the public.

(3) In the case where a landowner owns a single tract of land that is intersected by the boundary lines of two (2) or more assigned service areas, and retail electric service can best be supplied by only one (1) electricity supplier, or in the case where a customer or customers are housed in a single structure or constitute a single governmental, industrial, or institutional operation, and the electricity suppliers involved are unable to agree which shall furnish the electric service, any of the electricity suppliers may submit the matter to the commission for its determination based upon public convenience and necessity. If, after notice and hearing, the commission determines that one (1) or more electricity suppliers are to supply the required retail electric service and the boundaries of an assigned service area are to be

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changed, the assigned service area maps of the electricity suppliers shall be changed to reflect the new boundaries.

SECTION 2. IC 13-18-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The persons involved shall negotiate the terms for connection and service under this chapter.

(b) **After June 30, 2007**, if service is ordered under this chapter, a receiver of that service that is located in an unincorporated area may grant a waiver to a municipality providing the service. A waiver under this section:

(1) must waive the receiver's right of remonstrance against annexation of the areas in which the service is to be provided; and
(2) may be one (1) of the terms for connection and service described in subsection (a).

(c) The waiver, if granted:

(1) shall be noted on the deed of each property affected and recorded as provided by law; and
(2) is considered a covenant running with the land:

not enter into an agreement with the municipality providing the service for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that the receiver will not do any or all of the following:

- (1) Remonstrate against a proposed annexation of the property by the municipality under IC 36-4-3-11.
- (2) Appeal a proposed annexation of the property by the municipality under IC 36-4-3-15.5.
- (3) Appeal from an order or a judgment annexing the property to the municipality.
- (4) File a complaint or an action against annexation proceedings.

(c) An agreement entered into in violation of this section is void and unenforceable.

SECTION 3. IC 36-3-2-7.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.6. (a) **After June 30, 2007**, a person who owns or occupies property may not enter into an agreement with a municipality for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that the person will not do any or all of the following:

- (1) Remonstrate against a proposed annexation of the property by the municipality under IC 36-4-3-11.
- (2) Appeal a proposed annexation of the property by the

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municipality under IC 36-4-3-15.5.

(3) Appeal from an order or a judgment annexing the property to the municipality.

(4) File a complaint or an action against annexation proceedings.

(b) An agreement entered into in violation of this section is void and unenforceable.

SECTION 4. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least ~~one-eighth (1/8)~~ **one-fourth (1/4)** of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

SECTION 5. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.7. A municipality may annex only whole parcels of land.**

SECTION 6. IC 36-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation for not more than three (3) years; and
- (2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

- (1) The resident population density of the territory is at least three (3) persons per acre.
- (2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory

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described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet the basic services described in section ~~13(d)(4) and 13(d)(5)~~ **13(c)(4) and 13(c)(5)** of this chapter for a period of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not later than five (5) years after the annexation becomes effective.

SECTION 7. IC 36-4-3-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11.6. (a) After June 30, 2007, a person who owns or occupies property may not enter into an agreement with a municipality for themselves, their executors, administrators, heirs, devisees, grantees, successors, and assigns that the person will not do any or all of the following:**

- (1) Remonstrate against a proposed annexation of the property by the municipality under IC 36-4-3-11.**
- (2) Appeal a proposed annexation of the property by the municipality under IC 36-4-3-15.5.**
- (3) Appeal from an order or a judgment annexing the property to the municipality.**
- (4) File a complaint or an action against annexation proceedings.**

(b) An agreement entered into in violation of this section is void and unenforceable.

SECTION 8. IC 36-4-3-13, AS AMENDED BY P.L.111-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13. (a) Except as provided in subsections ~~(e)~~ (d) and ~~(g)~~ (f), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:**

- ~~(1) The requirements of either subsection (b) or and (c) are met.~~**
- ~~(2) The requirements of subsection (d).~~**

(b) The requirements of this subsection are met if the evidence establishes the following:

- (1) That the territory sought to be annexed is contiguous to the municipality.**
- (2) One (1) of the following:**
 - (A) The resident population density of the territory sought to**

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be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(3) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

~~(c)~~ The requirements of this subsection are met if the evidence establishes the following:

~~(1)~~ That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter; except that at least one-fourth (1/4); instead of one-eighth (1/8); of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

~~(2)~~ That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

~~(d)~~ **(c)** The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street

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construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

~~(c)~~ (d) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).
 (2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection ~~(f)~~ (e).

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

~~(f)~~ (e) The municipality under subsection ~~(c)~~(2)~~(C)~~ (d)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining

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1 this issue, the court may consider whether the municipality has
2 extended sewer or water services to the entire territory to be annexed:

- 3 (1) within the three (3) years preceding the date of the
4 introduction of the annexation ordinance; or
5 (2) under a contract in lieu of annexation entered into under
6 IC 36-4-3-21.

7 The court may not consider the provision of water services as a result
8 of an order by the Indiana utility regulatory commission to constitute
9 the provision of water services to the territory to be annexed.

10 ~~(g)~~ (f) This subsection applies only to cities located in a county
11 having a population of more than two hundred thousand (200,000) but
12 less than three hundred thousand (300,000). However, this subsection
13 does not apply if on April 1, 1993, the entire boundary of the territory
14 that is proposed to be annexed was contiguous to territory that was
15 within the boundaries of one (1) or more municipalities. At the hearing
16 under section 12 of this chapter, the court shall do the following:

- 17 (1) Consider evidence on the conditions listed in subdivision (2).
18 (2) Order a proposed annexation not to take place if the court
19 finds that all of the following conditions exist in the territory
20 proposed to be annexed:

21 (A) The following services are adequately furnished by a
22 provider other than the municipality seeking the annexation:

- 23 (i) Police and fire protection.
24 (ii) Street and road maintenance.

25 (B) The annexation will have a significant financial impact on
26 the residents or owners of land.

27 (C) One (1) of the following opposes the annexation:

- 28 (i) A majority of the owners of land in the territory proposed
29 to be annexed.
30 (ii) The owners of more than seventy-five percent (75%) in
31 assessed valuation of the land in the territory proposed to be
32 annexed.

33 Evidence of opposition may be expressed by any owner of land
34 in the territory proposed to be annexed.

35 ~~(h)~~ (g) The most recent:

- 36 (1) federal decennial census;
37 (2) federal special census;
38 (3) special tabulation; or
39 (4) corrected population count;

40 shall be used as evidence of resident population density for purposes
41 of subsection (b)(2)(A), but this evidence may be rebutted by other
42 evidence of population density.

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SECTION 9. IC 36-4-3-15.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

(c) Under a settlement agreement between the annexing municipality and either:

(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section ~~13(d)~~ **13(c)** of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection (c)(1) or (c)(2).

SECTION 10. IC 36-4-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section ~~13(d)(4)~~ **13(c)(4)** of this chapter; or

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section ~~13(d)(5)~~ **13(c)(5)** of this chapter;

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a

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1 jury. In order to be granted relief, the plaintiff must establish one (1) of
2 the following:

3 (1) That the municipality has without justification failed to
4 implement the plan required by section 13 of this chapter within
5 the specific time limit for implementation after annexation.

6 (2) That the municipality has not provided police protection, fire
7 protection, sanitary sewers, and water for human consumption
8 within the specific time limit for implementation, unless one (1)
9 of these services is being provided by a separate taxing district or
10 by a privately owned public utility.

11 (3) That the annexed territory is not receiving governmental and
12 proprietary services substantially equivalent in standard and scope
13 to the services provided by the municipality to other areas of the
14 municipality, regardless of topography, patterns of land use, and
15 population density similar to the annexed territory.

16 (c) The court may:

17 (1) grant an injunction prohibiting the collection of taxes levied
18 by the municipality on the plaintiff's property located in the
19 annexed territory;

20 (2) award damages to the plaintiff not to exceed one and
21 one-fourth (1 1/4) times the taxes collected by the municipality
22 for the plaintiff's property located in the annexed territory;

23 (3) order the annexed territory or any part of it to be disannexed
24 from the municipality;

25 (4) order the municipality to submit a revised fiscal plan for
26 providing the services to the annexed territory within time limits
27 set up by the court; or

28 (5) grant any other appropriate relief.

29 (d) A change of venue from the county is not permitted for an action
30 brought under this section.

31 (e) If the court finds for the plaintiff, the defendant shall pay all
32 court costs and reasonable attorney's fees as approved by the court.

33 (f) The provisions of this chapter that apply to territory disannexed
34 by other procedures apply to territory disannexed under this section.

35 SECTION 11. IC 36-9-25-14 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) As to each
37 municipality to which this chapter applies:

38 (1) all the territory included within the corporate boundaries of
39 the municipality; and

40 (2) any territory, town, addition, platted subdivision, or unplatted
41 land lying outside the corporate boundaries of the municipality
42 that has been taken into the district in accordance with a prior

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1 statute, the sewage or drainage of which discharges into or
 2 through the sewage system of the municipality;
 3 constitutes a special taxing district for the purpose of providing for the
 4 sanitary disposal of the sewage of the district in a manner that protects
 5 the public health and prevents the undue pollution of watercourses of
 6 the district.

7 (b) Upon request by:

8 (1) a resolution adopted by the legislative body of another
 9 municipality in the same county; or

10 (2) a petition of the majority of the resident freeholders in a
 11 platted subdivision or of the owners of unplatted land outside the
 12 boundaries of a municipality, if the platted subdivision or
 13 unplatted land is in the same county;

14 the board may adopt a resolution incorporating all or any part of the
 15 area of the municipality, platted subdivision, or unplatted land into the
 16 district.

17 (c) A request under subsection (b) must be signed and certified as
 18 correct by the secretary of the legislative body, resident freeholders, or
 19 landowners. The original shall be preserved in the records of the board.
 20 The resolution of the board incorporating an area in the district must be
 21 in writing and must contain an accurate description of the area
 22 incorporated into the district. A certified copy of the resolution, signed
 23 by the president and secretary of the board, together with a map
 24 showing the boundaries of the district and the location of additional
 25 areas, shall be delivered to the auditor of the county within which the
 26 district is located. It shall be properly indexed and kept in the
 27 permanent records of the offices of the auditor.

28 (d) In addition, upon request by ten (10) or more interested resident
 29 freeholders in a platted or unplatted territory, the board may define the
 30 limits of an area within the county and including the property of the
 31 freeholders that is to be considered for inclusion into the district.
 32 Notice of the defining of the area by the board, and notice of the
 33 location and limits of the area, shall be given by publication in
 34 accordance with IC 5-3-1. Upon request by a majority of the resident
 35 freeholders of the area, the area may be incorporated into the district in
 36 the manner provided in this section. The resolution of the board
 37 incorporating the area into the district and a map of the area shall be
 38 made and filed in the same manner.

39 (e) In addition, a person owning or occupying real property outside
 40 the district may enter into a sewer service agreement with the board for
 41 connection to the sewage works of the district. If the agreement
 42 provides for connection at a later time, the date or the event upon

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1 which the service commences shall be stated in the agreement. The
 2 agreement may impose any conditions for connection that the board
 3 determines. The agreement must also provide the amount of service
 4 charge to be charged for connection if the persons are not covered
 5 under section 11 of this chapter, with the amount to be fixed by the
 6 board in its discretion and without a hearing.

7 (f) All sewer service agreements made under subsection (e) shall be
 8 recorded in the office of the recorder of the county where the property
 9 is located. The agreements run with the property described and are
 10 binding upon the persons owning or occupying the property, their
 11 personal representatives, heirs, devisees, grantees, successors, and
 12 assigns. Each recorded agreement that provides for the property being
 13 served to be placed on the tax rolls shall be certified by the board to the
 14 auditor of the county where the property is located. The certification
 15 must state the date the property is to be placed on the tax rolls, and
 16 upon receipt of the certification together with a copy of the agreement,
 17 the auditor shall immediately place the property certified upon the rolls
 18 of property subject to the levy and collection of taxes for the district.
 19 An agreement may provide for the collection of a service charge for the
 20 period services are rendered before the levy and collection of the tax.

21 (g) ~~Except as provided in subsection (i);~~ **After June 30, 2007**, sewer
 22 service agreements made under subsection (e) ~~must~~ **may not** contain
 23 a provision that persons ~~(other than municipalities)~~ who own or occupy
 24 property agree for themselves, their executors, administrators, heirs,
 25 devisees, grantees, successors, and assigns that they will:

- 26 (1) neither object to nor file a remonstrance against the proposed
- 27 annexation of the property by a municipality within the
- 28 boundaries of the district;
- 29 (2) not appeal from an order or a judgment annexing the property
- 30 to a municipality; and
- 31 (3) not file a complaint or an action against annexation
- 32 proceedings.

33 **A provision in a sewer service agreement that violates this**
 34 **subsection is void and unenforceable.**

35 (h) This section does not affect any sewer service agreements
 36 entered into before March 13, 1953.

37 (i) ~~Subsection (g) does not apply to a landowner if all of the~~
 38 ~~following conditions apply:~~

- 39 (1) ~~The landowner is required to connect to a sewer service~~
- 40 ~~because a person other than the landowner has polluted or~~
- 41 ~~contaminated the area;~~
- 42 (2) ~~The costs of extension of service or connection to the sewer~~

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1 service are paid by a person other than the landowner or the
2 municipality.
3 SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 JULY 1, 2007]: IC 13-18-15-5; IC 36-3-2-7.5; IC 36-4-3-11.5.

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